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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,984	10/30/2003	James D. Dale	1062/D74	7856
2101	7590	09/23/2005	EXAMINER	
BROMBERG & SUNSTEIN LLP 125 SUMMER STREET BOSTON, MA 02110-1618			LUGO, CARLOS	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/696,984

Applicant(s)

DALE, JAMES D.

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input checked="" type="checkbox"/> Other: <u>attachemnts #1 and 2</u> . |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the moveable member generating the force directly to the door or the assembly or by means of an element between the expandable member and the door or the assembly, as claimed in claims 1,19-21,34,45 and 46, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective

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action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

2. The specification is objected to because of the following informalities:

- Page 1 Line 11, change “XX/XXX, XXX” to -10/696,969- (for the application D70).
- Page 1 Line 14, change “XX/XXX, XXX” to -10/696,893- (for the application D71).
- Page 1 Line 17, change “XX/XXX, XXX” to -10/696,818- (for the application D72).
- Page 1 Line 20, change “XX/XXX, XXX” to -10/697,176- (for the application D73).
- Page 1 Line 23, change “XX/XXX, XXX” to -10/697,450- (for the application D75).
- Page 1 Line 26, change “XX/XXX, XXX” to -10/697,862- (for the application D84).
- Page 1 Line 29, change “XX/XXX, XXX” to -10/696,990- (for the application D85).
- Page 9 Line 16, change “101” to -104-.
- Page 9 Line 17, change “the door 402” to -the assembly 408-.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. **Claims 1-46 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1,21 and 34 recites that the moveable member is capable of generate a force against at least one of the assembly and the door to press together and substantially prevent disengagement of the engagement surfaces.

It is unclear how the moveable member could prevent the disengagement of the engagement surfaces if the moveable member generates the force against the assembly.

As seen in Figure 3G, the only way that the disengagement of the first and second engagement surfaces is prevented is that a force is exerted to the door 402 and not to the assembly 408. Therefore, until proper correction and/or clear explanation by the applicant, the limitation will be examined as generating a force against the door.

Further, claims 1 and 34 recite that the first engagement surface at least partially contacts the second engagement surface and the first overlap surface at least partially overlaps the second overlap surface. It is unclear how the first engagement surface 220 contacts the second engagement surface 740. As seen in Figure 2 (see attachment #1), the first engagement surface 220 never has contact with the second

engagement surface 704. The surface that contacts the second engagement surface is the first overlap surface 221. Therefore, until proper correction and/or clear explanation by the applicant, the limitation will be examined as the assembly having a first engagement configuration that contact a second engagement configuration at the door.

Claims 3,22 and 35 recite that the second engagement surface forms a projection for engaging the undercut. It is unclear what the applicant is trying to claim as his invention since, as seen in attachment #2 and as described in Page 8 Lines 2-4, the second engagement surface, at 703, also forms an undercut that engages the undercut of the first engagement surface 220. Therefore, in order to continue with the examination, the limitation will be examined as having a second undercut for engaging the undercut of the first engagement surface. Appropriate correction is required.

As to claims 13-17,20,27-29,33,41-43, and 46, it is unclear how the different elements of the assembly, i.e., comprising a control element for operating a pump cassette, wherein the control element includes a bezel and a bezel gasket that includes a membrane, that includes a pneumatic control circuit for displacing the membrane, interacts with the locking system. Is the applicant trying to claim the combination of the locking system with these components? Until the applicant clearly explains how these components interacts with the locking system, i.e., the engagement of the engagement configurations with the moveable member, these components will be considered as the intended use of the assembly, i.e., the

assembly intended to accommodate the a control element for operating a pump cassette, wherein the control element includes a bezel and a bezel gasket that includes a membrane.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-4,7-18,21-31,34,35, and 39-44 are rejected** under 35 U.S.C. 102(b) as being anticipated by US Pat No 4,073,521 to Mena.

Regarding claims 1,21 and 34, Mena discloses a door locking system comprising an assembly (13) including a latching structure having a first engagement configuration (33 and 34).

A door (14) is movably coupled to the assembly. The door includes a latch member having a second engagement configuration (32 and 35) that in a closed position of the door, it will engage the first engagement configuration in the same manner claimed by the applicant.

A movable member (16) is capable of generating a force against at least one of the assembly and the door to press together and substantially prevent disengagement of the first engagement configuration and the second engagement configuration.

As to claim 2, Mena discloses that the first engagement configuration forms an undercut (at 33 or at 34).

As to claims 3,22 and 35, Mena discloses that the second engagement configuration forms a projection (at 32 or at 35) for engaging the undercut of the first engagement configuration.

As to claim 4, Mena discloses that the latch member includes a post extending from the door that includes the second engagement surface (the curve between 32 or 35 and 14, Figure 2).

As to claim 7, Mena discloses that the movable member (16) is capable of generating a continuous force against the at least one of the assembly and the door.

As to claim 8, Mena discloses that the movable member (16) is coupled to one of the door and the assembly.

As to claim 9, Mena discloses that the movable member (16) is positioned between the door and a surface of the assembly.

As to claims 10,24 and 39, Mena discloses that the movable member (16) is an expandable member.

As to claims 11,25 and 40, Mena discloses that the expandable member is a bladder (16).

As to claims 12 and 26, Mena discloses that the system further comprises a pneumatic circuit (39) for controlling the movable member.

As to claims 13-17,27-29, and 41-43, the limitations presented in these claims are considered as the intended use of the assembly and have no patentable weight.



As to claims 18,31 and 44, Mena discloses that the moveable member (16) contacts the at least one of the assembly and the door.

As to claim 23, Mena illustrates that the system further comprises a handle (29) attached to the second engagement means (by means of the door 14).

As to claim 30, Mena discloses that the moveable member is between the door and the assembly.

#### ***Allowable Subject Matter***

7. **Claims 5,19,32,36, and 45 would be allowable** if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. Claims 6,20,33,37,38 and 46 would be also allowed because the claims depend from claims 5,19,32,36, and 45 respectively.

#### **Reasons For Allowable Subject Matter**

8. The following is an examiner's statement of reasons for allowance:

Claims 5,19,32,36 and 45 presents allowable subject matter over the prior art of record because the teachings of the references taken as a whole do not teach or render obvious the combination set forth, including that the handle operates the latch (claims 5 and 36); and that an element is positioned between the moveable element and at least one of the door and the assembly so that the moveable element, when expands, will contact the element in order to generate the force against the door or the assembly.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

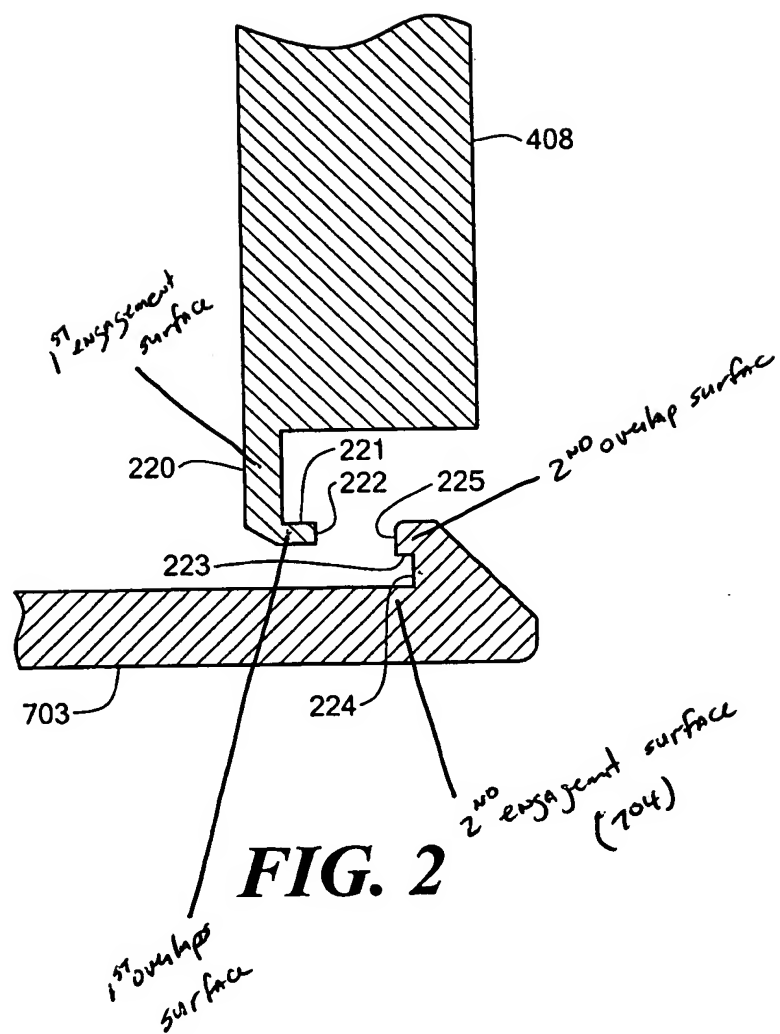
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

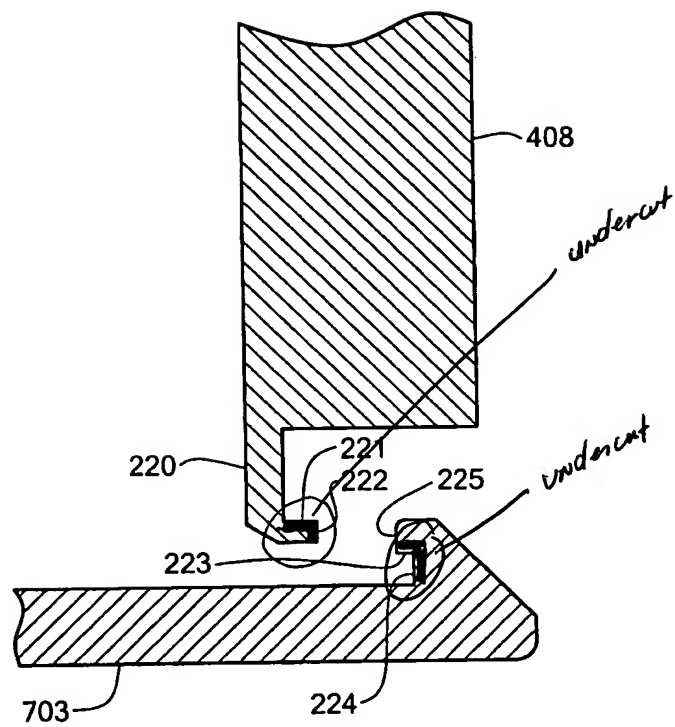
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

Carlos Lugo  
AU 3676

September 9, 2005

  
**BRIAN E. GLESSNER**  
**PRIMARY EXAMINER**





**FIG. 2**

*Attachment # 2*